

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ORDER

Plaintiff, a state prisoner appearing *pro se* whose pleadings are liberally construed, brings this action pursuant to 42 U.S.C. § 1983, the Americans with Disabilities Act, and the Rehabilitation Act, alleging various violations of his federal constitutional rights.

Magistrate Judge Doyle W. Argo's Report and Recommendation of August 8, 2006, is before the court. (Doc. no. 51.) In it, Magistrate Judge Argo recommends that defendants' motions to dismiss (doc. nos. 16, 19) be granted for plaintiff's failure to show exhaustion of administrative remedies. Magistrate Judge Argo also recommends that plaintiff's motion to amend and for appointment of counsel (doc. no. 22) be denied.

Plaintiff has objected to the Report. (Doc. no. 62). Plaintiff has also filed a document entitled: "Emergency Motion/Supplementary Document to Plaintiff's Brief in the Above Case Mailed on 10-18-06, 2006. Also, Motion Seeking to Deal with Dr. Gumerlock's Default." (Doc. no. 65.) To the extent that plaintiff's motion asks the court to consider the arguments stated in the motion as a supplement to plaintiff's

briefing, the motion is **GRANTED**; in all other respects, plaintiff's motion is **DENIED** as set forth below.

As required by 28 U.S.C. § 636(b)(1), the court has reviewed all objected to matters *de novo*. Having concluded that review, and after careful consideration of plaintiff's objections, the record, and the relevant authorities, the court finds that no purpose would be served by any further analysis here.

The Report and Recommendation of Magistrate Judge Argo is **ACCEPTED**, **ADOPTED**, and **AFFIRMED** in its entirety. Defendants' motions to dismiss are **GRANTED**. Plaintiff's motion to amend and to appoint counsel is **DENIED**. To the extent that plaintiff's new motion (doc. no. 65) asks the court "to deal with Dr. Gumerlock's default," the motion is **DENIED**.

Dated this 25th day of October, 2006.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

05-1261p008(pub).wpd